

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SCHEESER, BUCKLEY, MAYFIELD,
INC.,

CASE NO.: 5:05CV1389

JUDGE JOHN ADAMS

ORDER AND DECISION

This matter comes before the Court on Defendant The HDMR Group, Inc.’s Motion to Transfer this action to the United States District Court for the Southern District of West Virginia at Huntington for the convenience of the parties and witnesses. (Doc. #10) In response, Plaintiff Scheeser, Buckley, Mayfield, Inc. filed a motion for early neutral evaluation and to stay consideration of Defendant’s Motion to transfer. On July 5, 2005, this Court marginally denied Plaintiff’s motion and instructed Plaintiff to respond to the Motion to Transfer within 10 days from the date of the Order. No response was filed.

The factors the Court must consider in a motion to transfer based on 28 U.S.C. §1404 include: "(1) the convenience of the parties; (2) the convenience of the witnesses; (3) the relative ease of access to sources of proof; (4) the availability of process to compel attendance of unwilling witnesses; (5) the cost of obtaining willing witnesses; (6) the practical problems associated with trying the case most expeditiously and inexpensively; and (7) the interest of justice." *MCNIC Oil & Gas Co. v. IBEX Res. Co.*, 23 F.Supp.2d

729, 738-39 (quoting *Helder v. Hitachi Power Tools*, 764 F.Supp. 93, 96 (E.D.Mich.1991)).

Although Plaintiff would be inconvenienced by having to travel to West Virginia to pursue this suit, it would be no different than traveling there to perform the work contracted. Defendants and all likely witnesses who performed work are located in West Virginia therefore costs to obtain the witnesses presence in court would be much lower if not required to travel to this District.¹ The work was performed in West Virginia and as such, the access to sources of proof would be in West Virginia. The West Virginia federal court has the means and availability of process to compel attendance of unwilling witnesses. Additionally, the West Virginia District Court would be as expeditious as this one and the costs would be lowered significantly if tried in that District. Therefore, it is determined that, based on the above facts and in the interest of justice, the Court finds that the above action should be transferred to the United States District Court for the Southern District of West Virginia at Huntington. Defendant's Motion to Transfer is GRANTED.

So ordered.

s/ Judge John R. Adams 7/22/05
JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT COURT

¹ Although the Court does not have knowledge of the residency of all potential witnesses in the case, because Plaintiff has filed no response to the Motion, this Court must rely on Defendant's stated witnesses.